



General Assembly

January Session, 2015

Raised Bill No. 7038

LCO No. 5349



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:
(FIN)

AN ACT CONCERNING THE ESTABLISHMENT OF TAX-FREE ACCOUNTS TO PROVIDE FOR DISABILITY RELATED EXPENSES PURSUANT TO THE FEDERAL ACHIEVING A BETTER LIFE EXPERIENCE ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) As used in this section
2 and sections 2 to 8, inclusive, of this act:

3 (1) "Achieving a better life experience account" or "ABLE account"
4 means an account established and maintained pursuant to sections 2 to
5 8, inclusive, of this act for the purposes of paying the qualified
6 disability expenses related to the blindness or disability of a
7 designated beneficiary.

8 (2) "Contracting state" means a state without a qualified ABLE
9 program that has entered into a contract with the State Treasurer or
10 other officer of this state to provide residents of the contracting state
11 with access to qualified ABLE programs.

12 (3) "Deposit" means a deposit, payment, contribution, gift or other
13 transfer of funds.

14 (4) "Depositor" means any person making a deposit into an ABLE
15 account pursuant to a participation agreement.

16 (5) "Designated beneficiary" means any individual state resident or
17 resident of a contracting state originally designated in the participation
18 agreement who is an eligible individual and is the owner of an ABLE
19 account.

20 (6) "Disability certification" means, with respect to an individual, a
21 certification to the satisfaction of the Secretary of the Treasury of the
22 United States by the individual or the parent or guardian of the
23 individual that (A) certifies that (i) the individual has a medically
24 determinable physical or mental impairment, that results in marked
25 and severe functional limitations, and that can be expected to result in
26 death or that has lasted or can be expected to last for a continuous
27 period of not less than twelve months, or is blind within the meaning
28 of Section 1614(a)(2) of the Social Security Act, and (ii) such
29 impairment or blindness occurred before the date on which the
30 individual attained the age of twenty-six, and (B) includes a copy of
31 the individual's diagnosis relating to the individual's relevant
32 impairment or blindness that is signed by a physician who is licensed
33 pursuant to chapter 370 of the general statutes.

34 (7) "Eligible individual" means an individual who is entitled to
35 benefits during a taxable year based on blindness or disability under
36 Title II or XVI of the Social Security Act, and such blindness or
37 disability occurred before the date on which the individual attained
38 the age of twenty-six, provided a disability certification with respect to
39 such individual is filed with the State Treasurer for such taxable year.

40 (8) "Federal ABLE Act" means the federal ABLE Act of 2014, P.L.
41 113-295, as amended from time to time.

42 (9) "Participation agreement" means an agreement between the trust
43 and depositors that provides for participation in an ABLE account for
44 the benefit of a designated beneficiary.

45 (10) "Qualified disability expenses" means any expenses related to
46 an eligible individual's blindness or disability that are made for the
47 benefit of an eligible individual who is the designated beneficiary,
48 including the following expenses: Education, housing, transportation,
49 employment training and support, assistive technology and personal
50 support services, health, prevention and wellness, financial
51 management and administrative services, legal fees, expenses for
52 oversight and monitoring, funeral and burial expenses, and other
53 expenses that are approved by the Secretary of the Treasury of the
54 United States under regulations adopted by the Secretary pursuant to
55 the federal ABLE Act.

56 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) (1) The State Treasurer
57 shall establish a qualified ABLE program pursuant to the federal ABLE
58 Act and sections 1 to 8, inclusive, of this act. Under the program: (A)
59 The State Treasurer shall administer individual ABLE accounts to
60 encourage and assist eligible individuals and families in saving private
61 funds to provide support for eligible individuals, and (B) a person may
62 make contributions to an individual ABLE account to meet the
63 qualified disability expenses of the designated beneficiary of the
64 account.

65 (2) For the purposes of the program, there is established within the
66 Office of the State Treasurer the Connecticut Achieving A Better Life
67 Experience Trust. The trust shall constitute an instrumentality of the
68 state and shall perform essential governmental functions, as provided
69 in sections 1 to 8, inclusive, of this act. The trust shall receive and hold
70 all payments and deposits intended for ABLE accounts as well as gifts,
71 bequests, endowments or federal, state or local grants and any other
72 funds from public or private sources and all earnings, until disbursed
73 in accordance with sections 1 to 8, inclusive, of this act.

74 (b) (1) The amounts on deposit in the trust shall not constitute
75 property of the state and the trust shall not be construed to be a
76 department, institution or agency of the state. Amounts on deposit in
77 the trust shall not be commingled with state funds and the state shall
78 have no claim to or against, or interest in, such amounts, except as
79 provided in subdivision (2) of this subsection. Any contract entered
80 into by, or any obligation of, the trust shall not constitute a debt or
81 obligation of the state and the state shall have no obligation to any
82 designated beneficiary or any other person on account of the trust and
83 all amounts obligated to be paid from the trust shall be limited to
84 amounts available for such obligation on deposit in the trust. The
85 amounts on deposit in the trust may only be disbursed in accordance
86 with the provisions of sections 1 to 8, inclusive, of this act.

87 (2) The trust shall continue in existence as long as it holds any
88 deposits or other funds or has any obligations and until its existence is
89 terminated by law, and upon termination of the trust, any unclaimed
90 assets of the trust shall return to the state. Property of the trust shall be
91 governed by section 3-61a of the general statutes.

92 (c) The State Treasurer shall be responsible for the receipt,
93 maintenance, administration, investment and disbursements of
94 amounts from the trust. The trust shall not receive deposits in any
95 form other than cash. No depositor or designated beneficiary may
96 direct the investment of any contributions or amounts held in the trust
97 other than in the specific fund options provided for by the trust and
98 shall not direct investments in such specific fund options more than
99 two times in any calendar year. No interest, or portion of any interest,
100 in the program shall be used as security for a loan.

101 (d) A person may make deposits to an ABLE account to meet the
102 qualified disability expenses of the designated beneficiary of the
103 account, provided the trust and deposits meet the other requirements
104 of this section, the federal ABLE Act and any regulations adopted
105 pursuant to the federal ABLE Act by the Secretary of the Treasury of

106 the United States.

107 (e) On or before December 31, 2016, and annually thereafter, the
108 State Treasurer shall submit (1) in accordance with the provisions of
109 subsection (a) of section 3-37 of the general statutes, a report to the
110 Governor on the operations of the trust, including the receipts,
111 disbursements, assets, investments and liabilities and administrative
112 costs of the trust for the prior fiscal year, and (2) in accordance with the
113 provisions of section 11-4a of the general statutes, a report on the trust
114 to the joint standing committees of the General Assembly having
115 cognizance of matters relating to finance and public health, and shall
116 make such report available to each depositor and designated
117 beneficiary. The report required under subdivision (2) of this
118 subsection shall include, but need not be limited to: (A) The number of
119 ABLE accounts; (B) the total amount of contributions to such accounts;
120 (C) the total amount and nature of distributions from such accounts;
121 and (D) a description of issues relating to the abuse of such accounts, if
122 any.

123 Sec. 3. (NEW) (*Effective October 1, 2015*) The State Treasurer, on
124 behalf of the trust and for purposes of the trust, may:

125 (1) Receive and invest moneys in the trust in any instruments,
126 obligations, securities or property in accordance with section 4 of this
127 act;

128 (2) Establish consistent terms for each participation agreement, bulk
129 deposit, coupon or installment payments, including, but not limited to,
130 (A) the method of payment into an ABLE account by payroll
131 deduction, transfer from bank accounts or otherwise, (B) the
132 termination, withdrawal or transfer of payments under an ABLE
133 account, including transfers to or from a qualified ABLE program
134 established by another state pursuant to the federal ABLE Act, (C)
135 penalties for distributions not used or made in accordance with the
136 federal ABLE Act, and (D) the amount of any charges or fees to be

137 assessed in connection with the administration of the trust;

138 (3) Enter into one or more contractual agreements, including
139 contracts for legal, actuarial, accounting, custodial, advisory,
140 management, administrative, advertising, marketing and consulting
141 services for the trust and pay for such services from the gains and
142 earnings of the trust;

143 (4) Procure insurance in connection with the trust's property, assets,
144 activities or deposits or contributions to the trust;

145 (5) Apply for, accept and expend gifts, grants or donations from
146 public or private sources to enable the Connecticut Achieving A Better
147 Life Experience Trust to carry out its objectives;

148 (6) Sue and be sued;

149 (7) Establish one or more funds within the trust and maintain
150 separate ABLE accounts for each designated beneficiary; and

151 (8) Take any other action necessary to carry out the purposes of
152 sections 1 to 8, inclusive, of this act and incidental to the duties
153 imposed on the State Treasurer pursuant to said sections.

154 Sec. 4. (NEW) (*Effective October 1, 2015*) Notwithstanding the
155 provisions of sections 3-13 to 3-13h, inclusive, of the general statutes,
156 the State Treasurer shall invest the amounts on deposit in the trust in a
157 manner reasonable and appropriate to achieve the objectives of such
158 trust, exercising the discretion and care of a prudent person in similar
159 circumstances with similar objectives. The State Treasurer shall give
160 due consideration to the rate of return, risk, term or maturity,
161 diversification of the total portfolio within the trust, liquidity,
162 projected disbursements and expenditures and the expected payments,
163 deposits, contributions and gifts to be received. The State Treasurer
164 shall not require the trust to invest directly in obligations of the state or
165 any political subdivision of the state or in any investment or other

166 fund administered by the State Treasurer. The assets of the trust shall
167 be continuously invested and reinvested in a manner consistent with
168 the objectives of the trust until disbursed for qualified disability
169 expenses, expended on expenses incurred by the operations of the
170 trust or refunded to the depositor or designated beneficiary on the
171 conditions provided in the participation agreement.

172 Sec. 5. (NEW) (*Effective October 1, 2015*) Participation in the trust and
173 the offering, sale and solicitation of opportunities to participate in the
174 trust are exempt from sections 36b-16 and 36b-22 of the general
175 statutes, provided the State Treasurer has obtained written advice of
176 counsel or written advice from the Securities Exchange Commission,
177 or both, that the trust and the offering, sale and solicitation of
178 opportunities to participate in the trust are not subject to federal
179 securities laws.

180 Sec. 6. (NEW) (*Effective October 1, 2015*) The property of the trust and
181 the earnings on the trust shall be exempt from taxation by the state and
182 political subdivisions of the state.

183 Sec. 7. (NEW) (*Effective October 1, 2015*) The state pledges to
184 depositors, designated beneficiaries and any party who enters into
185 contracts with the trust, pursuant to the provisions of sections 1 to 8,
186 inclusive, of this act, that the state will not limit or alter the rights
187 under said sections vested in the trust or contract with the trust until
188 such obligations are fully met and discharged and such contracts are
189 fully performed on the part of the trust, provided nothing in this
190 section shall preclude such limitation or alteration if adequate
191 provision is made by law for the protection of such depositors and
192 designated beneficiaries pursuant to the obligations of the trust or
193 parties who entered into such contracts with the trust. The trust, on
194 behalf of the state, may include a description of such pledge and
195 undertaking for the state in participation agreements and such other
196 obligations or contracts.

197 Sec. 8. (NEW) (*Effective October 1, 2015*) The State Treasurer shall
198 take any action necessary to ensure that the trust complies with all
199 applicable requirements of state and federal laws, rules and
200 regulations to the extent necessary for the trust to constitute a qualified
201 ABLE program and be exempt from taxation under the federal ABLE
202 Act, and any regulations adopted pursuant to the federal ABLE Act by
203 the Secretary of the Treasury of the United States.

204 Sec. 9. (NEW) (*Effective October 1, 2015*) (a) Notwithstanding any
205 provision of the general statutes, moneys invested in an individual
206 ABLE account, contributions to an individual ABLE account and
207 distributions for qualified disability expenses pursuant to sections 1 to
208 8, inclusive, of this act, shall be disregarded for purposes of
209 determining an individual's eligibility for assistance under the
210 temporary family assistance program, as described in section 17b-112
211 of the general statutes, programs funded under the federal Low
212 Income Home Energy Assistance Program block grant and any other
213 federally funded assistance or benefit program, including, but not
214 limited to, the state's medical assistance program, whenever such
215 program requires consideration of one or more financial circumstances
216 of an individual for the purpose of determining the individual's
217 eligibility to receive any assistance or benefit or the amount of any
218 assistance or benefit.

219 (b) Notwithstanding any provision of the general statutes, no
220 moneys invested in the ABLE accounts shall be considered to be an
221 asset for purposes of determining an individual's eligibility for need-
222 based, institutional aid grants offered to an individual at the public
223 eligible educational institutions in the state.

224 Sec. 10. Subparagraph (B) of subdivision (20) of subsection (a) of
225 section 12-701 of the general statutes, as amended by section 50 of
226 public act 14-47, is repealed and the following is substituted in lieu
227 thereof (*Effective July 1, 2015, and applicable to taxable years commencing*
228 *on or after January 1, 2015*):

229 (B) There shall be subtracted therefrom (i) to the extent properly
230 includable in gross income for federal income tax purposes, any
231 income with respect to which taxation by any state is prohibited by
232 federal law, (ii) to the extent allowable under section 12-718, exempt
233 dividends paid by a regulated investment company, (iii) the amount of
234 any refund or credit for overpayment of income taxes imposed by this
235 state, or any other state of the United States or a political subdivision
236 thereof, or the District of Columbia, to the extent properly includable
237 in gross income for federal income tax purposes, (iv) to the extent
238 properly includable in gross income for federal income tax purposes
239 and not otherwise subtracted from federal adjusted gross income
240 pursuant to clause (x) of this subparagraph in computing Connecticut
241 adjusted gross income, any tier 1 railroad retirement benefits, (v) to the
242 extent any additional allowance for depreciation under Section 168(k)
243 of the Internal Revenue Code, as provided by Section 101 of the Job
244 Creation and Worker Assistance Act of 2002, for property placed in
245 service after December 31, 2001, but prior to September 10, 2004, was
246 added to federal adjusted gross income pursuant to subparagraph
247 (A)(ix) of this subdivision in computing Connecticut adjusted gross
248 income for a taxable year ending after December 31, 2001, twenty-five
249 per cent of such additional allowance for depreciation in each of the
250 four succeeding taxable years, (vi) to the extent properly includable in
251 gross income for federal income tax purposes, any interest income
252 from obligations issued by or on behalf of the state of Connecticut, any
253 political subdivision thereof, or public instrumentality, state or local
254 authority, district or similar public entity created under the laws of the
255 state of Connecticut, (vii) to the extent properly includable in
256 determining the net gain or loss from the sale or other disposition of
257 capital assets for federal income tax purposes, any gain from the sale
258 or exchange of obligations issued by or on behalf of the state of
259 Connecticut, any political subdivision thereof, or public
260 instrumentality, state or local authority, district or similar public entity
261 created under the laws of the state of Connecticut, in the income year
262 such gain was recognized, (viii) any interest on indebtedness incurred

263 or continued to purchase or carry obligations or securities the interest
264 on which is subject to tax under this chapter but exempt from federal
265 income tax, to the extent that such interest on indebtedness is not
266 deductible in determining federal adjusted gross income and is
267 attributable to a trade or business carried on by such individual, (ix)
268 ordinary and necessary expenses paid or incurred during the taxable
269 year for the production or collection of income which is subject to
270 taxation under this chapter but exempt from federal income tax, or the
271 management, conservation or maintenance of property held for the
272 production of such income, and the amortizable bond premium for the
273 taxable year on any bond the interest on which is subject to tax under
274 this chapter but exempt from federal income tax, to the extent that
275 such expenses and premiums are not deductible in determining federal
276 adjusted gross income and are attributable to a trade or business
277 carried on by such individual, (x) (I) for a person who files a return
278 under the federal income tax as an unmarried individual whose
279 federal adjusted gross income for such taxable year is less than fifty
280 thousand dollars, or as a married individual filing separately whose
281 federal adjusted gross income for such taxable year is less than fifty
282 thousand dollars, or for a husband and wife who file a return under
283 the federal income tax as married individuals filing jointly whose
284 federal adjusted gross income for such taxable year is less than sixty
285 thousand dollars or a person who files a return under the federal
286 income tax as a head of household whose federal adjusted gross
287 income for such taxable year is less than sixty thousand dollars, an
288 amount equal to the Social Security benefits includable for federal
289 income tax purposes; and (II) for a person who files a return under the
290 federal income tax as an unmarried individual whose federal adjusted
291 gross income for such taxable year is fifty thousand dollars or more, or
292 as a married individual filing separately whose federal adjusted gross
293 income for such taxable year is fifty thousand dollars or more, or for a
294 husband and wife who file a return under the federal income tax as
295 married individuals filing jointly whose federal adjusted gross income
296 from such taxable year is sixty thousand dollars or more or for a

297 person who files a return under the federal income tax as a head of
298 household whose federal adjusted gross income for such taxable year
299 is sixty thousand dollars or more, an amount equal to the difference
300 between the amount of Social Security benefits includable for federal
301 income tax purposes and the lesser of twenty-five per cent of the Social
302 Security benefits received during the taxable year, or twenty-five per
303 cent of the excess described in Section 86(b)(1) of the Internal Revenue
304 Code, (xi) to the extent properly includable in gross income for federal
305 income tax purposes, any amount rebated to a taxpayer pursuant to
306 section 12-746, (xii) to the extent properly includable in the gross
307 income for federal income tax purposes of a designated beneficiary,
308 any distribution to such beneficiary from any qualified state tuition
309 program, as defined in Section 529(b) of the Internal Revenue Code,
310 established and maintained by this state or any official, agency or
311 instrumentality of the state, (xiii) to the extent allowable under section
312 12-701a, contributions to accounts established pursuant to any
313 qualified state tuition program, as defined in Section 529(b) of the
314 Internal Revenue Code, established and maintained by this state or
315 any official, agency or instrumentality of the state, (xiv) to the extent
316 properly includable in gross income for federal income tax purposes,
317 the amount of any Holocaust victims' settlement payment received in
318 the taxable year by a Holocaust victim, (xv) to the extent properly
319 includable in gross income for federal income tax purposes of an
320 account holder, as defined in section 31-51ww, interest earned on
321 funds deposited in the individual development account, as defined in
322 section 31-51ww, of such account holder, (xvi) to the extent properly
323 includable in the gross income for federal income tax purposes of a
324 designated beneficiary, as defined in section 3-123aa, interest,
325 dividends or capital gains earned on contributions to accounts
326 established for the designated beneficiary pursuant to the Connecticut
327 Homecare Option Program for the Elderly established by sections 3-
328 123aa to 3-123ff, inclusive, (xvii) to the extent properly includable in
329 gross income for federal income tax purposes, fifty per cent of the
330 income received from the United States government as retirement pay

331 for a retired member of (I) the Armed Forces of the United States, as
 332 defined in Section 101 of Title 10 of the United States Code, or (II) the
 333 National Guard, as defined in Section 101 of Title 10 of the United
 334 States Code, (xviii) to the extent properly includable in gross income
 335 for federal income tax purposes for the taxable year, any income from
 336 the discharge of indebtedness in connection with any reacquisition,
 337 after December 31, 2008, and before January 1, 2011, of an applicable
 338 debt instrument or instruments, as those terms are defined in Section
 339 108 of the Internal Revenue Code, as amended by Section 1231 of the
 340 American Recovery and Reinvestment Act of 2009, to the extent any
 341 such income was added to federal adjusted gross income pursuant to
 342 subparagraph (A)(x) of this subdivision in computing Connecticut
 343 adjusted gross income for a preceding taxable year, (xix) to the extent
 344 not deductible in determining federal adjusted gross income, the
 345 amount of any contribution to a manufacturing reinvestment account
 346 established pursuant to section 32-9zz in the taxable year that such
 347 contribution is made, [and] (xx) to the extent properly includable in
 348 gross income for federal income tax purposes, for the taxable year
 349 commencing January 1, 2015, ten per cent of the income received from
 350 the state teachers' retirement system, for the taxable year commencing
 351 January 1, 2016, twenty-five per cent of the income received from the
 352 state teachers' retirement system, and for the taxable year commencing
 353 January 1, 2017, and each taxable year thereafter, fifty per cent of the
 354 income received from the state teachers' retirement system, and (xxi) to
 355 the extent properly includable in gross income for federal income tax
 356 purposes, the amount of any contribution to an individual ABLE
 357 account pursuant to the federal ABLE Act and sections 1 to 8,
 358 inclusive, of this act, in the taxable year that such contribution is made.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section
Sec. 2	October 1, 2015	New section
Sec. 3	October 1, 2015	New section

Sec. 4	<i>October 1, 2015</i>	New section
Sec. 5	<i>October 1, 2015</i>	New section
Sec. 6	<i>October 1, 2015</i>	New section
Sec. 7	<i>October 1, 2015</i>	New section
Sec. 8	<i>October 1, 2015</i>	New section
Sec. 9	<i>October 1, 2015</i>	New section
Sec. 10	<i>July 1, 2015, and applicable to taxable years commencing on or after January 1, 2015</i>	12-701(a)(20)(B)

Statement of Purpose:

To enable the establishment of tax-free accounts to pay disability related expenses pursuant to the federal Achieving A Better Life Experience (ABLE) Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]